

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

**MEMORANDUM**

Criminal File No. 04-269 (MJD/AJB)

(1) KIER SHAWN JOHNSON,

Defendant.

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Joseph T. Dixon, III, Assistant United States Attorney, Counsel for Plaintiff.

James E. Ostgard, II, Ostgard Law Office, Counsel for Defendant.

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This matter is before the Court on Defendant Kier Shawn Johnson's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [Docket No. 98] and on Defendant's Motion to Reduce Sentence Pursuant to 18 U.S.C. §3582 (c)(2).

During the hearing on these motions on July 24, 2009, the Court requested that the parties provide any additional authorities to the Court regarding the

appropriateness of the request, in Johnson's § 2255 petition, that the Court retroactively apply Begay to the application of the career offender guideline during Johnson's original sentencing. The Court is already aware of the following authorities, and, thus, only seeks any other additional authority from the parties:

United States v. Coley, No. 08-15962, 2009 WL 2019859 (11th Cir. July 14, 2009)

Sun Bear v. United States, No. CIV 08-3021, No. CR 01-30051, 2009 WL 2033028 (D.S.D. July 9, 2009)

United States v. Narvaez, Nos. 09-cv-222-bbc, 03-cr-0081-jcs-01, 2009 WL 1505658 (W.D. Wis. May 26, 2009)

United States v. McElroy, Nos. 06-CR-0147-CVE, 09-CV-0040-CVE-PJC, 2009 WL 1372908 (N.D. Okla. May 14, 2009)

United States v. Campbell, Cr. No. 6:06-812-HMH, 2009 WL 1254287 (D.S.C. May 1, 2009)

Dated: July 24, 2009

s/Michael J. Davis  
Michael J. Davis  
Chief Judge  
United States District Court